

titles, who are not professional engineers, as well as many who are trained in the engineering profession, but are actually working as trainees, junior engineers, or draftsmen.

§ 541.309 20-percent nonexempt work limitation.

Time spent in nonexempt work, that is, work which is not an essential part of and necessarily incident to the exempt work, is limited to 20 percent of the time worked by the employee in the workweek.

§ 541.310 Trainees, professional.

The exemption applies to an employee employed in a bona fide professional capacity and does not include trainees who are not actually performing the duties of a professional employee.

§ 541.311 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than \$170 per week, exclusive of board, lodging or other facilities, is required for exemption as a "professional employee." An employee will meet this requirement if paid a biweekly salary of \$340, a semi monthly salary of \$368.33 or a monthly salary of \$736.67.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the salary test for exemption as a "professional" for other than employees of the Federal Government is \$150 per week.

(c) The payment of the compensation specified in paragraph (a) or (b) of this section is not a requisite for exemption in the case of employees exempted from this requirement by the proviso to § 541.3(e), as explained in § 541.314.

(d) The payment of the required salary must be exclusive of board, lodging, or other facilities; that is, free and clear. On the other hand, the regulations in subpart A of this part do not prohibit the sale of such facilities to professional employees on a cash basis if they are negotiated in the same manner as similar transactions with other persons.

[38 FR 11390, May 7, 1973, as amended at 40 FR 7093, Feb. 19, 1975]

EFFECTIVE DATE NOTE: Paragraphs (a) and (b) in § 541.311 were revised at 46 FR 3015, Jan. 13, 1981. In accordance with the President's Memorandum of January 29, 1981 (46 FR 11227, Feb. 6, 1981), the effective date was postponed indefinitely at 46 FR 11972, Feb. 12, 1981.

The text of paragraphs (a) and (b) set forth above remains in effect pending further action by the issuing agency. The text of the postponed regulation appears below.

§ 541.311 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than \$250 per week beginning February 13, 1981 and \$280 per week beginning February 13, 1983, exclusive of board, lodging or other facilities, is required for exemption as a "professional employee." For example, based on \$280 a week, an employee will meet this requirement if paid a biweekly salary of \$560, a semi-monthly salary of \$606.67 or a monthly salary of \$1,213.33.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the salary test for exemption as a "professional" for other than employees of the Federal Government is \$225 per week beginning February 13, 1981 and \$250 per week beginning February 13, 1983.

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§ 541.312 Salary basis.

The salary basis of payment is explained in § 541.118 in connection with the definition of "executive." Pursuant to Public Law 101-583, enacted November 15, 1990, payment "on a salary basis" is not a requirement for exemption in the case of those employees in computer-related occupations, as defined in § 541.3(a)(4) and § 541.303, who otherwise meet the requirements of § 541.3 and who are paid on an hourly basis if their hourly rate of pay exceeds 6½ times the minimum wage provided by section 6 of the Act.

[57 FR 46745, Oct. 9, 1992]

§ 541.313 Fee basis.

(a) The requirements for exemption as a professional (or administrative) employee may be met by an employee who is compensated on a fee basis as well as by one who is paid on a salary basis.